

October 25, 2021

The Honorable Jerrold Nadler
Chair
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member
House Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Re: Enhanced Judicial Security for Article I Federal Judges

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the American Bar Association (ABA), the largest voluntary association of lawyers and legal professionals in the world, I write to urge you to amend H.R. 4436, the Daniel Aderl Judicial Security and Privacy Act of 2021, to include judges of the U.S. Court of Appeals for the Armed Forces, U.S. Court of Appeals for Veterans Claims, and U.S. Tax Court within its scope of coverage and to act on the bill promptly. Like all other courts covered in the current bill, these Article I courts are courts of record that are independent of the Executive Branch, exercise judicial authority, and whose decisions are subject to review in an Article III appellate court. In addition, judges of these Article I courts, likewise, are appointed by the President with the advice and consent of the Senate and are subject to the same Code of Conduct for United States Judges.

Enhancing the security of all our federal judges is of paramount importance to the ABA and the entire legal profession. During ABA Day 2021, our virtual association-wide grassroots lobbying event this past April, participants advocated for the legislation. Upon reintroduction of the bill this summer, we stated that the legislation is urgently needed to preserve the ability of our federal judges to decide matters that come before them without fear of reprisal or physical harm to themselves or their families. All federal judges deserve this heightened level of protection.

Even though the number of additional Article I judges that would be affected by inclusion is relatively small, the issues before these judges are broad in their reach and significance to the litigants before them. The jurisdiction of the U.S. Court of Appeals for the Armed Forces extends to all military cases involving a death sentence and other military cases in which review is granted upon petition to the Court. The jurisdiction of the U.S. Court of Appeals for Veterans

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Claims is exclusive to decisions involving the ability of U.S. military veterans and their families to claim veterans' benefits and services. The jurisdiction of the U.S. Tax Court may impact life-altering matters such as the ability of a litigant to continue to own their home, to freely travel, or to maintain their standard of living. The security and privacy threats facing the judges from these three courts are no less real and troubling than those threats faced by other Federal judges.

We are aware that a draft amendment has been provided to your committee for review that should allay concerns over expanding the scope of coverage to include judges of these Article I courts. At present, the bill delegates implementation authority to the Administrative Office of the U.S. Courts (AO) with the assistance of the U.S. Marshals Service (USMS), and none of the Article I courts seeking coverage receive significant support from the AO. The draft amendment proposes a simple, straightforward solution: the Article I chief judges would assume the enhanced security responsibilities the bill currently delegates to the AO for their respective courts, and the role of the USMS would be the same for all courts under the amended bill.

Most important, the draft amendment does not create additional burdens for the AO, and the chief judges of these three courts already have administrative authority over their courts and have expressed support for the draft amendment.

The ABA is supportive of this solution and stands ready to help in any way we can. Please feel free to contact Denise Cardman, Deputy Director of the Governmental Affairs Office at denise.cardman@americanbar.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise Cardman", with a stylized flourish at the end.

cc: Members of the House Judiciary Committee